

**ASSEMBLY BILL**

**No. 50**

**Introduced by Assembly Member Koretz**

December 2, 2002

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An act to amend Sections 245, 12011, 12020, 12022, 12022.5, 12079, 12275, 12275.5, 12280, 12285, 12286, 12287, 12288, 12288.5, 12289, and 12290 of, and to add Section 12278 to, the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 50, as introduced, Koretz. .50 Caliber BMG rifles.

Existing law makes it an offense for any person to commit an assault upon the person of another with a machinegun or an assault weapon. Existing law also makes it an offense for any person to commit an assault upon the person of a peace officer or firefighter, as specified, with a machinegun or assault weapon.

This bill would expand each of these offenses to include an assault with a .50 BMG rifle, as defined.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

Existing law establishes the Prohibited Armed Persons File database that tracks possession or ownership of firearms and assault weapons, as specified.

This bill would include tracking the possession and ownership of .50 BMG rifles in the database, as specified.

Existing law makes it an offense, subject to certain exceptions, for any person to manufacture or cause to be manufactured, import into this state, keep for sale, offer or expose for sale, give, lend, or possess a variety of specified dangerous weapons and items.

This bill would, subject to certain exceptions, extend those provisions to include any .50 BMG cartridge, as defined.

By expanding the scope of an existing offense, this bill would impose a state-mandated local program.

Existing law provides a sentencing enhancement for persons who commit or attempt to commit a felony with a machinegun or an assault weapon, as specified.

This bill would extend those provisions to include the use of a .50 BMG rifle.

By increasing the burden on local prosecuting entities, this bill would impose a state-mandated local program.

Existing law authorizes the Department of Justice to issue permits for the possession, transportation, or sale between a licensed firearms dealer and an out-of-state client of large-capacity magazines.

This bill would extend those provisions to include .50 BMG cartridges, as defined.

Existing law defines “assault weapon” for purposes of regulation.

This bill would define “.50 BMG rifle” and “.50 BMG cartridge” for purposes of regulation.

Existing law makes it an offense, subject to certain exceptions, for any person to manufacture or cause to be manufactured, import into this state, transport, distribute, keep for sale, offer or expose for sale, give, lend, or possess an assault weapon, as specified, and provides a sentence enhancement for anyone who transfers, lends, sells, or gives an assault weapon to a minor, as specified.

This bill would extend those provisions to include a .50 BMG rifle.

By expanding the scope of existing crimes and sentence enhancements, this bill would impose a state-mandated local program.

Existing law provides a scheme for registration and issuance of permits in connection with assault weapons.

This bill would establish similar provisions for the registration and issuance of permits in connection with .50 BMG rifles. This bill would authorize the Department of Justice to charge a registration fee not exceeding \$25 for the registration of a .50 BMG rifle, as specified.

Existing law forbids the broadcast over police radio of information that an individual has registered, or has a permit to possess, an assault weapon, with specified exceptions.

This bill would expand those provisions to cover individuals who register or have permits to possess .50 BMG rifles.



Existing law provides that persons may arrange to relinquish an assault weapon to a police or sheriff's department.

This bill would similarly permit persons to arrange to relinquish a .50 BMG rifle to a police or sheriff's department.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 245 of the Penal Code is amended to  
2 read:

3 245. (a) (1) Any person who commits an assault upon the  
4 person of another with a deadly weapon or instrument other than  
5 a firearm or by any means of force likely to produce great bodily  
6 injury shall be punished by imprisonment in the state prison for  
7 two, three, or four years, or in a county jail for not exceeding one  
8 year, or by a fine not exceeding ten thousand dollars (\$10,000), or  
9 by both the fine and imprisonment.

10 (2) Any person who commits an assault upon the person of  
11 another with a firearm shall be punished by imprisonment in the  
12 state prison for two, three, or four years, or in a county jail for not  
13 less than six months and not exceeding one year, or by both a fine  
14 not exceeding ten thousand dollars (\$10,000) and imprisonment.

15 (3) Any person who commits an assault upon the person of  
16 another with a machinegun, as defined in Section 12200, or an  
17 assault weapon, as defined in Section 12276 or 12276.1, *or a .50*  
18 *BMG rifle, as defined in Section 12278*, shall be punished by  
19 imprisonment in the state prison for 4, 8, or 12 years.

20 (b) Any person who commits an assault upon the person of  
21 another with a semiautomatic firearm shall be punished by  
22 imprisonment in the state prison for three, six, or nine years.

23 (c) Any person who commits an assault with a deadly weapon  
24 or instrument, other than a firearm, or by any means likely to  
25 produce great bodily injury upon the person of a peace officer or

1 firefighter, and who knows or reasonably should know that the  
2 victim is a peace officer or firefighter engaged in the performance  
3 of his or her duties, when the peace officer or firefighter is engaged  
4 in the performance of his or her duties, shall be punished by  
5 imprisonment in the state prison for three, four, or five years.

6 (d) (1) Any person who commits an assault with a firearm  
7 upon the person of a peace officer or firefighter, and who knows  
8 or reasonably should know that the victim is a peace officer or  
9 firefighter engaged in the performance of his or her duties, when  
10 the peace officer or firefighter is engaged in the performance of his  
11 or her duties, shall be punished by imprisonment in the state prison  
12 for four, six, or eight years.

13 (2) Any person who commits an assault upon the person of a  
14 peace officer or firefighter with a semiautomatic firearm and who  
15 knows or reasonably should know that the victim is a peace officer  
16 or firefighter engaged in the performance of his or her duties, when  
17 the peace officer or firefighter is engaged in the performance of his  
18 or her duties, shall be punished by imprisonment in the state prison  
19 for five, seven, or nine years.

20 (3) Any person who commits an assault with a machinegun, as  
21 defined in Section 12200, or an assault weapon, as defined in  
22 Section 12276 or 12276.1, *or a .50 BMG rifle, as defined in*  
23 *Section 12278*, upon the person of a peace officer or firefighter,  
24 and who knows or reasonably should know that the victim is a  
25 peace officer or firefighter engaged in the performance of his or  
26 her duties, shall be punished by imprisonment in the state prison  
27 for 6, 9, or 12 years.

28 (e) When a person is convicted of a violation of this section in  
29 a case involving use of a deadly weapon or instrument or firearm,  
30 and the weapon or instrument or firearm is owned by that person,  
31 the court shall order that the weapon or instrument or firearm be  
32 deemed a nuisance, and it shall be confiscated and disposed of in  
33 the manner provided by Section 12028.

34 (f) As used in this section, “peace officer” refers to any person  
35 designated as a peace officer in Chapter 4.5 (commencing with  
36 Section 830) of Title 3 of Part 2.

37 SEC. 2. Section 12011 of the Penal Code is amended to read:  
38 12011. The Prohibited Armed Persons File data base shall  
39 function as follows:

(a) Upon entry into the Automated Criminal History System of a disposition for a conviction of any felony, a conviction for any firearms-prohibiting charge specified in Section 12021, a conviction for an offense described in Section 12021.1, a firearms prohibition pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, or any firearms possession prohibition identified by the federal National Instant Check System, the Department of Justice shall determine if the subject has an entry in the Automated Firearms System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, *or a .50 BMG rifle registration*.

(b) Upon an entry into any department automated information system that is used for the identification of persons who are prohibited from acquiring, owning, or possessing firearms, the department shall determine if the subject has an entry in the Automated Firearms System indicating ownership or possession of a firearm on or after January 1, 1991, or an assault weapon registration, *or a .50 BMG rifle registration*.

(c) If the department determines that, pursuant to subdivision (a) or (b), the subject has an entry in the Automated Firearms System indicating possession or ownership of a firearm on or after January 1, 1991, or an assault weapon registration, *or a .50 BMG rifle registration*, the following information shall be entered into the Prohibited Armed Persons File:

(1) The subject's name.

(2) The subject's date of birth.

(3) The subject's physical description.

(4) Any other identifying information regarding the subject that is deemed necessary by the Attorney General.

(5) The basis of the firearms possession prohibition.

(6) A description of all firearms owned or possessed by the subject, as reflected by the Automated Firearms System.

SEC. 3. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a

1 firearm, any camouflaging firearm container, any ammunition  
2 which contains or consists of any fléchette dart, any bullet  
3 containing or carrying an explosive agent, any ballistic knife, any  
4 multiburst trigger activator, any nunchaku, any short-barreled  
5 shotgun, any short-barreled rifle, any metal knuckles, any belt  
6 buckle knife, any leaded cane, any zip gun, any shuriken, any  
7 unconventional pistol, any lipstick case knife, any cane sword, any  
8 shobi-zue, any air gauge knife, any writing pen knife, any metal  
9 military practice handgrenade or metal replica handgrenade, or  
10 any instrument or weapon of the kind commonly known as a  
11 blackjack, slungshot, billy, sandclub, sap, or sandbag.

12 (2) Commencing January 1, 2000, manufactures or causes to be  
13 manufactured, imports into the state, keeps for sale, or offers or  
14 exposes for sale, or who gives, or lends, any large-capacity  
15 magazine.

16 (3) Carries concealed upon his or her person any explosive  
17 substance, other than fixed ammunition.

18 (4) Carries concealed upon his or her person any dirk or dagger.

19 However, a first offense involving any metal military practice  
20 handgrenade or metal replica handgrenade shall be punishable  
21 only as an infraction unless the offender is an active participant in  
22 a criminal street gang as defined in the Street Terrorism and  
23 Enforcement and Prevention Act (Chapter 11 (commencing with  
24 Section 186.20) of Title 7 of Part 1). A bullet containing or  
25 carrying an explosive agent is not a destructive device as that term  
26 is used in Section 12301.

27 (b) Subdivision (a) does not apply to any of the following:

28 (1) The sale to, purchase by, or possession of short-barreled  
29 shotguns or short-barreled rifles by police departments, sheriffs'  
30 offices, marshals' offices, the California Highway Patrol, the  
31 Department of Justice, or the military or naval forces of this state  
32 or of the United States for use in the discharge of their official  
33 duties or the possession of short-barreled shotguns and  
34 short-barreled rifles by peace officer members of a police  
35 department, sheriff's office, marshal's office, the California  
36 Highway Patrol, or the Department of Justice when on duty and the  
37 use is authorized by the agency and is within the course and scope  
38 of their duties and the peace officer has completed a training course  
39 in the use of these weapons certified by the Commission on Peace  
40 Officer Standards and Training.

1 (2) The manufacture, possession, transportation or sale of  
2 short-barreled shotguns or short-barreled rifles when authorized  
3 by the Department of Justice pursuant to Article 6 (commencing  
4 with Section 12095) of this chapter and not in violation of federal  
5 law.

6 (3) The possession of a nunchaku on the premises of a school  
7 which holds a regulatory or business license and teaches the arts  
8 of self-defense.

9 (4) The manufacture of a nunchaku for sale to, or the sale of a  
10 nunchaku to, a school which holds a regulatory or business license  
11 and teaches the arts of self-defense.

12 (5) Any antique firearm. For purposes of this section, “antique  
13 firearm” means any firearm not designed or redesigned for using  
14 rimfire or conventional center fire ignition with fixed ammunition  
15 and manufactured in or before 1898 (including any matchlock,  
16 flintlock, percussion cap, or similar type of ignition system or  
17 replica thereof, whether actually manufactured before or after the  
18 year 1898) and also any firearm using fixed ammunition  
19 manufactured in or before 1898, for which ammunition is no  
20 longer manufactured in the United States and is not readily  
21 available in the ordinary channels of commercial trade.

22 (6) Tracer ammunition manufactured for use in shotguns.

23 (7) Any firearm or ammunition which is a curio or relic as  
24 defined in Section 178.11 of Title 27 of the Code of Federal  
25 Regulations and which is in the possession of a person permitted  
26 to possess the items pursuant to Chapter 44 (commencing with  
27 Section 921) of Title 18 of the United States Code and the  
28 regulations issued pursuant thereto. Any person prohibited by  
29 Section 12021, 12021.1, or 12101 of this code or Section 8100 or  
30 8103 of the Welfare and Institutions Code from possessing  
31 firearms or ammunition who obtains title to these items by bequest  
32 or intestate succession may retain title for not more than one year,  
33 but actual possession of these items at any time is punishable  
34 pursuant to Section 12021, 12021.1, or 12101 of this code or  
35 Section 8100 or 8103 of the Welfare and Institutions Code. Within  
36 the year, the person shall transfer title to the firearms or  
37 ammunition by sale, gift, or other disposition. Any person who  
38 violates this paragraph is in violation of subdivision (a).

39 (8) Any other weapon as defined in subsection (e) of Section  
40 5845 of Title 26 of the United States Code and which is in the



1 possession of a person permitted to possess the weapons pursuant  
2 to the federal Gun Control Act of 1968 (Public Law 90-618), as  
3 amended, and the regulations issued pursuant thereto. Any person  
4 prohibited by Section 12021, 12021.1, or 12101 of this code or  
5 Section 8100 or 8103 of the Welfare and Institutions Code from  
6 possessing these weapons who obtains title to these weapons by  
7 bequest or intestate succession may retain title for not more than  
8 one year, but actual possession of these weapons at any time is  
9 punishable pursuant to Section 12021, 12021.1, or 12101 of this  
10 code or Section 8100 or 8103 of the Welfare and Institutions Code.  
11 Within the year, the person shall transfer title to the weapons by  
12 sale, gift, or other disposition. Any person who violates this  
13 paragraph is in violation of subdivision (a). The exemption  
14 provided in this subdivision does not apply to pen guns.

15 (9) Instruments or devices that are possessed by federal, state,  
16 and local historical societies, museums, and institutional  
17 collections which are open to the public, provided that these  
18 instruments or devices are properly housed, secured from  
19 unauthorized handling, and, if the instrument or device is a  
20 firearm, unloaded.

21 (10) Instruments or devices, other than short-barreled shotguns  
22 or short-barreled rifles, that are possessed or utilized during the  
23 course of a motion picture, television, or video production or  
24 entertainment event by an authorized participant therein in the  
25 course of making that production or event or by an authorized  
26 employee or agent of the entity producing that production or event.

27 (11) Instruments or devices, other than short-barreled shotguns  
28 or short-barreled rifles, that are sold by, manufactured by, exposed  
29 or kept for sale by, possessed by, imported by, or lent by persons  
30 who are in the business of selling instruments or devices listed in  
31 subdivision (a) solely to the entities referred to in paragraphs (9)  
32 and (10) when engaging in transactions with those entities.

33 (12) The sale to, possession of, or purchase of any weapon,  
34 device, or ammunition, other than a short-barreled rifle or  
35 short-barreled shotgun, by any federal, state, county, city and  
36 county, or city agency that is charged with the enforcement of any  
37 law for use in the discharge of their official duties, or the  
38 possession of any weapon, device, or ammunition, other than a  
39 short-barreled rifle or short-barreled shotgun, by peace officers





1 thereof when on duty and the use is authorized by the agency and  
2 is within the course and scope of their duties.

3 (13) Weapons, devices, and ammunition, other than a  
4 short-barreled rifle or short-barreled shotgun, that are sold by,  
5 manufactured by, exposed or kept for sale by, possessed by,  
6 imported by, or lent by, persons who are in the business of selling  
7 weapons, devices, and ammunition listed in subdivision (a) solely  
8 to the entities referred to in paragraph (12) when engaging in  
9 transactions with those entities.

10 (14) The manufacture for, sale to, exposing or keeping for sale  
11 to, importation of, or lending of wooden clubs or batons to special  
12 police officers or uniformed security guards authorized to carry  
13 any wooden club or baton pursuant to Section 12002 by entities  
14 that are in the business of selling wooden batons or clubs to special  
15 police officers and uniformed security guards when engaging in  
16 transactions with those persons.

17 (15) Any plastic toy handgrenade, or any metal military  
18 practice handgrenade or metal replica handgrenade, *or any .50*  
19 *BMG cartridge*, that is a relic, curio, memorabilia, or display item,  
20 that is filled with a permanent inert substance or that is otherwise  
21 permanently altered in a manner that prevents ready modification  
22 for use as a grenade, *or live ammunition*.

23 (16) Any instrument, ammunition, weapon, or device listed in  
24 subdivision (a) that is not a firearm that is found and possessed by  
25 a person who meets all of the following:

26 (A) The person is not prohibited from possessing firearms or  
27 ammunition pursuant to Section 12021 or 12021.1 or paragraph  
28 (1) of subdivision (b) of Section 12316 of this code or Section 8100  
29 or 8103 of the Welfare and Institutions Code.

30 (B) The person possessed the instrument, ammunition,  
31 weapon, or device no longer than was necessary to deliver or  
32 transport the same to a law enforcement agency for that agency's  
33 disposition according to law.

34 (C) If the person is transporting the listed item, he or she is  
35 transporting the listed item to a law enforcement agency for  
36 disposition according to law.

37 (17) Any firearm, other than a short-barreled rifle or  
38 short-barreled shotgun, that is found and possessed by a person  
39 who meets all of the following:

1 (A) The person is not prohibited from possessing firearms or  
2 ammunition pursuant to Section 12021 or 12021.1 or paragraph  
3 (1) of subdivision (b) of Section 12316 of this code or Section 8100  
4 or 8103 of the Welfare and Institutions Code.

5 (B) The person possessed the firearm no longer than was  
6 necessary to deliver or transport the same to a law enforcement  
7 agency for that agency's disposition according to law.

8 (C) If the person is transporting the firearm, he or she is  
9 transporting the firearm to a law enforcement agency for  
10 disposition according to law.

11 (D) Prior to transporting the firearm to a law enforcement  
12 agency, he or she has given prior notice to that law enforcement  
13 agency that he or she is transporting the firearm to that law  
14 enforcement agency for disposition according to law.

15 (E) The firearm is transported in a locked container as defined  
16 in subdivision (d) of Section 12026.2.

17 (18) The possession of any weapon, device, or ammunition, by  
18 a forensic laboratory or any authorized agent or employee thereof  
19 in the course and scope of his or her authorized activities.

20 (19) The sale of, giving of, lending of, importation into this  
21 state of, or purchase of, any large-capacity magazine to or by any  
22 federal, state, county, city and county, or city agency that is  
23 charged with the enforcement of any law, for use by agency  
24 employees in the discharge of their official duties whether on or  
25 off duty, and where the use is authorized by the agency and is  
26 within the course and scope of their duties.

27 (20) The sale to, lending to, transfer to, purchase by, receipt of,  
28 or importation into this state of, a large capacity magazine by a  
29 sworn peace officer as defined in Chapter 4.5 (commencing with  
30 Section 830) of Title 3 of Part 2 who is authorized to carry a firearm  
31 in the course and scope of his or her duties.

32 (21) The sale or purchase of any large-capacity magazine to or  
33 by a person licensed pursuant to Section 12071.

34 (22) The loan of a lawfully possessed large-capacity magazine  
35 between two individuals if all of the following conditions are met:

36 (A) The person being loaned the large-capacity magazine is not  
37 prohibited by Section 12021, 12021.1, or 12101 of this code or  
38 Section 8100 or 8103 of the Welfare and Institutions Code from  
39 possessing firearms or ammunition.



1 (B) The loan of the large-capacity magazine occurs at a place  
2 or location where the possession of the large-capacity magazine is  
3 not otherwise prohibited and the person who lends the  
4 large-capacity magazine remains in the accessible vicinity of the  
5 person to whom the large-capacity magazine is loaned.

6 (23) The importation of a large-capacity magazine by a person  
7 who lawfully possessed the large-capacity magazine in the state  
8 prior to January 1, 2000, lawfully took it out of the state, and is  
9 returning to the state with the large-capacity magazine previously  
10 lawfully possessed in the state.

11 (24) The lending or giving of any large-capacity magazine to  
12 a person licensed pursuant to Section 12071, or to a gunsmith, for  
13 the purposes of maintenance, repair, or modification of that  
14 large-capacity magazine.

15 (25) The return to its owner of any large-capacity magazine by  
16 a person specified in paragraph (24).

17 (26) The importation into this state of, or sale of, any  
18 large-capacity magazine by a person who has been issued a permit  
19 to engage in those activities pursuant to Section 12079, when those  
20 activities are in accordance with the terms and conditions of that  
21 permit.

22 (27) The sale of, giving of, lending of, importation into this  
23 state of, or purchase of, any large-capacity magazine, to or by  
24 entities that operate armored vehicle businesses pursuant to the  
25 laws of this state.

26 (28) The lending of large-capacity magazines by the entities  
27 specified in paragraph (27) to their authorized employees, while  
28 in the course and scope of their employment for purposes that  
29 pertain to the entity's armored vehicle business.

30 (29) The return of those large-capacity magazines to those  
31 entities specified in paragraph (27) by those employees specified  
32 in paragraph (28).

33 (30) (A) The manufacture of a large-capacity magazine for  
34 any federal, state, county, city and county, or city agency that is  
35 charged with the enforcement of any law, for use by agency  
36 employees in the discharge of their official duties whether on or  
37 off duty, and where the use is authorized by the agency and is  
38 within the course and scope of their duties.

39 (B) The manufacture of a large-capacity magazine for use by  
40 a sworn peace officer as defined in Chapter 4.5 (commencing with

1 Section 830) of Title 3 of Part 2 who is authorized to carry a firearm  
2 in the course and scope of his or her duties.

3 (C) The manufacture of a large-capacity magazine for export  
4 or for sale to government agencies or the military pursuant to  
5 applicable federal regulations.

6 (31) The loan of a large-capacity magazine for use solely as a  
7 prop for a motion picture, television, or video production.

8 (32) The purchase of a large-capacity magazine by the holder  
9 of a special weapons permit issued pursuant to Section 12095,  
10 12230, 12250, 12286, or 12305, for any of the following purposes:

11 (A) For use solely as a prop for a motion picture, television, or  
12 video production.

13 (B) For export pursuant to federal regulations.

14 (C) For resale to law enforcement agencies, government  
15 agencies, or the military, pursuant to applicable federal  
16 regulations.

17 (33) *Any person who manufactures, imports into the state,*  
18 *keeps for sale, or offers or exposes for sale, or gives, lends or*  
19 *possesses any .50 BMG cartridge, if the person may legally possess*  
20 *a .50 BMG rifle as defined in Section 12278.*

21 (c) (1) As used in this section, a “short-barreled shotgun”  
22 means any of the following:

23 (A) A firearm which is designed or redesigned to fire a fixed  
24 shotgun shell and having a barrel or barrels of less than 18 inches  
25 in length.

26 (B) A firearm which has an overall length of less than 26 inches  
27 and which is designed or redesigned to fire a fixed shotgun shell.

28 (C) Any weapon made from a shotgun (whether by alteration,  
29 modification, or otherwise) if that weapon, as modified, has an  
30 overall length of less than 26 inches or a barrel or barrels of less  
31 than 18 inches in length.

32 (D) Any device which may be readily restored to fire a fixed  
33 shotgun shell which, when so restored, is a device defined in  
34 subparagraphs (A) to (C), inclusive.

35 (E) Any part, or combination of parts, designed and intended  
36 to convert a device into a device defined in subparagraphs (A) to  
37 (C), inclusive, or any combination of parts from which a device  
38 defined in subparagraphs (A) to (C), inclusive, can be readily  
39 assembled if those parts are in the possession or under the control  
40 of the same person.

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, that measures approximately one inch in length, with tail fins that take up approximately five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving

1 the blow. The metal contained in the device may help support the  
2 hand or fist, provide a shield to protect it, or consist of projections  
3 or studs which would contact the individual receiving a blow.

4 (8) As used in this section, a “ballistic knife” means a device  
5 that propels a knifelike blade as a projectile by means of a coil  
6 spring, elastic material, or compressed gas. Ballistic knife does not  
7 include any device which propels an arrow or a bolt by means of  
8 any common bow, compound bow, crossbow, or underwater spear  
9 gun.

10 (9) As used in this section, a “camouflaging firearm  
11 container” means a container which meets all of the following  
12 criteria:

13 (A) It is designed and intended to enclose a firearm.

14 (B) It is designed and intended to allow the firing of the  
15 enclosed firearm by external controls while the firearm is in the  
16 container.

17 (C) It is not readily recognizable as containing a firearm.

18 “Camouflaging firearm container” does not include any  
19 camouflaging covering used while engaged in lawful hunting or  
20 while going to or returning from a lawful hunting expedition.

21 (10) As used in this section, a “zip gun” means any weapon or  
22 device which meets all of the following criteria:

23 (A) It was not imported as a firearm by an importer licensed  
24 pursuant to Chapter 44 (commencing with Section 921) of Title 18  
25 of the United States Code and the regulations issued pursuant  
26 thereto.

27 (B) It was not originally designed to be a firearm by a  
28 manufacturer licensed pursuant to Chapter 44 (commencing with  
29 Section 921) of Title 18 of the United States Code and the  
30 regulations issued pursuant thereto.

31 (C) No tax was paid on the weapon or device nor was an  
32 exemption from paying tax on that weapon or device granted under  
33 Section 4181 and Subchapters F (commencing with Section 4216)  
34 and G (commencing with Section 4221) of Chapter 32 of Title 26  
35 of the United States Code, as amended, and the regulations issued  
36 pursuant thereto.

37 (D) It is made or altered to expel a projectile by the force of an  
38 explosion or other form of combustion.

39 (11) As used in this section, a “shuriken” means any  
40 instrument, without handles, consisting of a metal plate having

1 three or more radiating points with one or more sharp edges and  
2 designed in the shape of a polygon, trefoil, cross, star, diamond,  
3 or other geometric shape for use as a weapon for throwing.

4 (12) As used in this section, an “unconventional pistol” means  
5 a firearm that does not have a rifled bore and has a barrel or barrels  
6 of less than 18 inches in length or has an overall length of less than  
7 26 inches.

8 (13) As used in this section, a “belt buckle knife” is a knife  
9 which is made an integral part of a belt buckle and consists of a  
10 blade with a length of at least 2½ inches.

11 (14) As used in this section, a “lipstick case knife” means a  
12 knife enclosed within and made an integral part of a lipstick case.

13 (15) As used in this section, a “cane sword” means a cane,  
14 swagger stick, stick, staff, rod, pole, umbrella, or similar device,  
15 having concealed within it a blade that may be used as a sword or  
16 stiletto.

17 (16) As used in this section, a “shobi-zue” means a staff,  
18 crutch, stick, rod, or pole concealing a knife or blade within it  
19 which may be exposed by a flip of the wrist or by a mechanical  
20 action.

21 (17) As used in this section, a “leaded cane” means a staff,  
22 crutch, stick, rod, pole, or similar device, unnaturally weighted  
23 with lead.

24 (18) As used in this section, an “air gauge knife” means a  
25 device that appears to be an air gauge but has concealed within it  
26 a pointed, metallic shaft that is designed to be a stabbing  
27 instrument which is exposed by mechanical action or gravity  
28 which locks into place when extended.

29 (19) As used in this section, a “writing pen knife” means a  
30 device that appears to be a writing pen but has concealed within it  
31 a pointed, metallic shaft that is designed to be a stabbing  
32 instrument which is exposed by mechanical action or gravity  
33 which locks into place when extended or the pointed, metallic shaft  
34 is exposed by the removal of the cap or cover on the device.

35 (20) As used in this section, a “rifle” means a weapon designed  
36 or redesigned, made or remade, and intended to be fired from the  
37 shoulder and designed or redesigned and made or remade to use  
38 the energy of the explosive in a fixed cartridge to fire only a single  
39 projectile through a rifled bore for each single pull of the trigger.





(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an “undetectable firearm” means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms “firearm,” “major component,” and “Security Exemplar” have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one’s person sufficient for reasonable passage of the public.

(23) As used in this section, a “multiburst trigger activator” means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a “dirk” or “dagger” means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife

1 that is not prohibited by Section 653k, or a pocketknife is capable  
2 of ready use as a stabbing weapon that may inflict great bodily  
3 injury or death only if the blade of the knife is exposed and locked  
4 into position.

5 (25) As used in this section, “large-capacity magazine” means  
6 any ammunition feeding device with the capacity to accept more  
7 than 10 rounds, but shall not be construed to include any of the  
8 following:

9 (A) A feeding device that has been permanently altered so that  
10 it cannot accommodate more than 10 rounds.

11 (B) A .22 caliber tube ammunition feeding device.

12 (C) A tubular magazine that is contained in a lever-action  
13 firearm.

14 (26) *As used in this section, a .50 BMG cartridge means a*  
15 *cartridge that is designed and intended to be fired from a center fire*  
16 *rifle and that meets the following criteria:*

17 (A) *It has an overall length of 5.54 inches from the base to the*  
18 *tip of the bullet.*

19 (B) *The bullet diameter for the cartridge is from .510 to, and*  
20 *including, .511 inch.*

21 (C) *The case base diameter for the cartridge is from .800 inch*  
22 *to, and including, .804 inch.*

23 (D) *The cartridge case length is 3.910 inches.*

24 (E) *It is a centerfire cartridge of .50 caliber or .50 BMG.*

25 (27) *As used in this section, “.50 BMG rifle” has the same*  
26 *meaning as set forth in Section 12278.*

27 (d) Knives carried in sheaths which are worn openly suspended  
28 from the waist of the wearer are not concealed within the meaning  
29 of this section.

30 SEC. 4. Section 12022 of the Penal Code is amended to read:

31 12022. (a) (1) Except as provided in subdivisions (c) and  
32 (d), any person who is armed with a firearm in the commission of  
33 a felony or attempted felony shall be punished by an additional and  
34 consecutive term of imprisonment in the state prison for one year,  
35 unless the arming is an element of that offense. This additional  
36 term shall apply to any person who is a principal in the commission  
37 of a felony or attempted felony if one or more of the principals is  
38 armed with a firearm, whether or not the person is personally  
39 armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, *or a .50 BMG rifle, as defined in Section 12278*, the additional and consecutive term described in this subdivision shall be three years whether or not the arming is an element of the offense of which the person was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission of a felony or attempted felony if one or more of the principals is armed with an assault weapon or machinegun, *or a .50 BMG rifle*, whether or not the person is personally armed with an assault weapon or machinegun, *or a .50 BMG rifle*.

(b) (1) Any person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission of a felony or attempted felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission of a violation or attempted violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall be punished by an additional and consecutive term of imprisonment in the state prison for three, four, or five years.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission of an offense or attempted offense specified in subdivision (c), shall be punished by an additional and consecutive term of imprisonment in the state prison for one, two, or three years.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 5. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a) Except as provided in subdivision (b), any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, *or a .50 BMG rifle, as defined in Section 12278*, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other provisions of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, ~~or a machinegun, or a .50 BMG rifle~~, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, ~~or machinegun, or a .50 BMG rifle~~, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 6. Section 12079 of the Penal Code is amended to read:

12079. (a) Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Section 12071 and an out-of-state client of large capacity magazines.

(b) For purposes of this section, “large capacity magazine” shall have the same meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

(c) *For purposes of this section, “.50 BMG cartridge,” shall have the same meaning as that set forth in paragraph (26) of subdivision (c) of Section 12020.*

SEC. 7. Section 12275 of the Penal Code is amended to read:

12275. This chapter shall be known as the Roberti-Roos Assault Weapons Control Act of 1989 *and the Koretz .50 BMG Rifle Control Act of 2003.*

SEC. 8. Section 12275.5 of the Penal Code is amended to read:

12275.5. (a) The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in Section 12276 based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.

(b) *The Legislature hereby finds and declares that the proliferation and use of .50 BMG rifles, as defined in Section 12278, poses a clear and present terrorist threat to the health, safety, and security of all residents of, and visitors to, this state,*

*based upon findings that those firearms have such a high capacity for long distance and highly destructive firepower that they pose an unacceptable risk to the death and serious injury of human beings, destruction or serious damage of vital public and private buildings, civilian, police and military vehicles, power generation and transmission facilities, petrochemical production and storage facilities, and transportation infrastructure. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of these rifles and to establish a registration and permit procedure for their lawful sale and possession.*

SEC. 9. Section 12278 is added to the Penal Code, to read:

12278. (a) As used in this chapter, a “.50 BMG rifle” means a center fire rifle designed or redesigned to fire a .50 BMG cartridge.

(b) As used in this chapter, a “.50 BMG cartridge” has the same meaning as set forth in paragraph (26) of subdivision (c) of Section 12020.

(c) A “.50 BMG rifle” does not include any “antique firearm,” nor any curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations.

(d) As used in this section, “antique firearm” means any firearm manufactured prior to January 1, 1899.

SEC. 10. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon *or any .50 BMG rifle*, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon *or any .50 BMG rifle* to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon *or any .50 BMG rifle*, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not



1 exceeding one year. However, if the person presents proof that he  
2 or she lawfully possessed the assault weapon prior to June 1, 1989,  
3 or prior to the date it was specified as an assault weapon, and has  
4 since either registered the firearm and any other lawfully obtained  
5 firearm specified by Section 12276 or 12276.5 pursuant to Section  
6 12285 or relinquished them pursuant to Section 12288, a first-time  
7 violation of this subdivision shall be an infraction punishable by  
8 a fine of up to five hundred dollars (\$500), but not less than three  
9 hundred fifty dollars (\$350), if the person has otherwise possessed  
10 the firearm in compliance with subdivision (c) of Section 12285.  
11 In these cases, the firearm shall be returned unless the court finds  
12 in the interest of public safety, after notice and hearing, that the  
13 assault weapon should be destroyed pursuant to Section 12028.

14 (c) A first-time violation of subdivision (b) shall be an  
15 infraction punishable by a fine of up to five hundred dollars  
16 (\$500), if the person was found in possession of no more than two  
17 firearms in compliance with subdivision (c) of Section 12285 and  
18 the person meets all of the following conditions:

19 (1) The person proves that he or she lawfully possessed the  
20 assault weapon prior to the date it was defined as an assault weapon  
21 pursuant to Section 12276.1.

22 (2) The person is not found in possession of a firearm specified  
23 as an assault weapon pursuant to Section 12276 or Section  
24 12276.5.

25 (3) The person has not previously been convicted of violating  
26 this section.

27 (4) The person was found to be in possession of the assault  
28 weapons within one year following the end of the one-year  
29 registration period established pursuant to subdivision (a) of  
30 Section 12285.

31 (5) The person has since registered the firearms and any other  
32 lawfully obtained firearms defined by Section 12276.1, pursuant  
33 to Section 12285, except as provided for by this section, or  
34 relinquished them pursuant to Section 12288.

35 (d) Firearms seized pursuant to subdivision (c) shall be  
36 returned unless the court finds in the interest of public safety, after  
37 notice and hearing, that the assault weapon should be destroyed  
38 pursuant to Section 12028.

39 (e) Notwithstanding Section 654 or any other provision of law,  
40 any person who commits another crime while violating this section



1 may receive an additional, consecutive punishment of one year for  
2 violating this section in addition and consecutive to the  
3 punishment, including enhancements, which is prescribed for the  
4 other crime.

5 (f) Subdivisions (a) and (b) shall not apply to the sale to,  
6 purchase by, *importation of*, or possession of assault weapons *or*  
7 *a .50 BMG rifle* by the Department of Justice, police departments,  
8 sheriffs' offices, marshals' offices, the Youth and Adult  
9 Corrections Agency, the Department of the California Highway  
10 Patrol, district attorneys' offices, Department of Fish and Game,  
11 Department of Parks and Recreation, or the military or naval  
12 forces of this state or of the United States, or any federal law  
13 enforcement agency for use in the discharge of their official duties.

14 (g) (1) Subdivision (b) shall not prohibit the possession or use  
15 of assault weapons *or a .50 BMG rifle* by sworn peace officer  
16 members of those agencies specified in subdivision (f) for law  
17 enforcement purposes, whether on or off duty.

18 (2) Subdivisions (a) and (b) shall not prohibit the delivery,  
19 transfer, or sale of an assault weapon *or a .50 BMG rifle* to, or the  
20 possession of an assault weapon by, a sworn peace officer member  
21 of an agency specified in subdivision (f), provided that the peace  
22 officer is authorized by his or her employer to possess or receive  
23 the assault weapon *or the .50 BMG rifle*. Required authorization  
24 is defined as verifiable written certification from the head of the  
25 agency, identifying the recipient or possessor of the assault  
26 weapon as a peace officer and authorizing him or her to receive or  
27 possess the specific assault weapon. For this exemption to apply,  
28 in the case of a peace officer who possesses or receives the assault  
29 weapon prior to January 1, 2002, the officer shall register the  
30 assault weapon pursuant to Section 12285 on or before April 1,  
31 2002; in the case of a peace officer who possesses or receives the  
32 assault weapon on or after January 1, 2002, the officer shall  
33 register the assault weapon pursuant to Section 12285 not later  
34 than 90 days after possession or receipt. *In the case of a peace*  
35 *officer who possesses or receives a .50 BMG rifle on or before*  
36 *January 1, 2004, the officer shall register the .50 BMG rifle on or*  
37 *before April 1, 2004. In the case of a peace officer who possesses*  
38 *or receives a .50 BMG rifle after January 1, 2004, the officer shall*  
39 *register the .50 BMG rifle not later than 90 days after possession*

1 *or receipt*. The peace officer must include with the registration, a  
2 copy of the authorization required pursuant to this paragraph.

3 (3) Nothing in this section shall be construed to limit or prohibit  
4 the delivery, transfer, or sale of an assault weapon *or a .50 BMG*  
5 *rifle* to, or the possession of an assault weapon *or a .50 BMG rifle*  
6 by, a member of a federal law enforcement agency provided that  
7 person is authorized by the *chief executive officer of the* employing  
8 agency to possess the assault weapon *or .50 BMG rifle*.

9 (h) Subdivisions (a) and (b) shall not prohibit the sale or  
10 transfer of assault weapons by an entity specified in subdivision (f)  
11 to a person, upon retirement, who retired as a sworn officer from  
12 that entity.

13 (i) Subdivision (b) shall not apply to the possession of an  
14 assault weapon by a retired peace officer who received that assault  
15 weapon pursuant to subdivision (h).

16 (j) Subdivision (b) shall not apply to the possession of an  
17 assault weapon, as defined in Section 12276, by any person during  
18 the 1990 calendar year, during the 90-day period immediately after  
19 the date it was specified as an assault weapon pursuant to Section  
20 12276.5, or during the one-year period after the date it was defined  
21 as an assault weapon pursuant to Section 12276.1, if all of the  
22 following are applicable:

23 (1) The person is eligible under this chapter to register the  
24 particular assault weapon.

25 (2) The person lawfully possessed the particular assault  
26 weapon described in paragraph (1) prior to June 1, 1989, if the  
27 weapon is specified as an assault weapon pursuant to Section  
28 12276, or prior to the date it was specified as an assault weapon  
29 pursuant to Section 12276.5, or prior to the date it was defined as  
30 an assault weapon pursuant to Section 12276.1.

31 (3) The person is otherwise in compliance with this chapter.

32 (k) Subdivisions (a) and (b) shall not apply to the manufacture  
33 by persons who are issued permits pursuant to Section 12287 of  
34 assault weapons *or .50 BMG rifles* for sale to the following:

35 (1) Exempt entities listed in subdivision (f).

36 (2) Entities and persons who have been issued permits pursuant  
37 to Section 12286.

38 (3) Entities outside the state who have, in effect, a federal  
39 firearms dealer's license solely for the purpose of distribution to  
40 an entity listed in paragraphs (4) to (6), inclusive.

1 (4) Federal military and law enforcement agencies.

2 (5) Law enforcement and military agencies of other states.

3 (6) Foreign governments and agencies approved by the United  
4 States State Department.

5 (l) Subdivision (a) shall not apply to a person who is the  
6 executor or administrator of an estate that includes an assault  
7 weapon *or a .50 BMG rifle* registered under Section 12285 or that  
8 was possessed pursuant to subdivision (g) or (i) which is disposed  
9 of as authorized by the probate court, if the disposition is otherwise  
10 permitted by this chapter.

11 (m) Subdivision (b) shall not apply to a person who is the  
12 executor or administrator of an estate that includes an assault  
13 weapon *or a .50 BMG rifle* registered under Section 12285 or that  
14 was possessed pursuant to subdivision (g) or (i), if the assault  
15 weapon *or .50 BMG rifle* is possessed at a place set forth in  
16 paragraph (1) of subdivision (c) of Section 12285 or as authorized  
17 by the probate court.

18 (n) Subdivision (a) shall not apply to:

19 (1) A person who lawfully possesses and has registered an  
20 assault weapon pursuant to this chapter, or who lawfully possesses  
21 an assault weapon pursuant to subdivision (i), who lends that  
22 assault weapon to another if all the following apply:

23 (A) The person to whom the assault weapon is lent is 18 years  
24 of age or over and is not in a class of persons prohibited from  
25 possessing firearms by virtue of Section 12021 or 12021.1 of this  
26 code or Section 8100 or 8103 of the Welfare and Institutions Code.

27 (B) The person to whom the assault weapon is lent remains in  
28 the presence of the registered possessor of the assault weapon, or  
29 the person who lawfully possesses an assault weapon pursuant to  
30 subdivision (i).

31 (C) The assault weapon is possessed at any of the following  
32 locations:

33 (i) While on a target range that holds a regulatory or business  
34 license for the purpose of practicing shooting at that target range.

35 (ii) While on the premises of a target range of a public or private  
36 club or organization organized for the purpose of practicing  
37 shooting at targets.

38 (iii) While attending any exhibition, display, or educational  
39 project that is about firearms and that is sponsored by, conducted  
40 under the auspices of, or approved by a law enforcement agency

1 or a nationally or state recognized entity that fosters proficiency  
2 in, or promotes education about, firearms.

3 (2) The return of an assault weapon to the registered possessor,  
4 or the lawful possessor, which is lent by the same pursuant to  
5 paragraph (1).

6 (o) Subdivision (b) shall not apply to the possession of an  
7 assault weapon by a person to whom an assault weapon is lent  
8 pursuant to subdivision (n).

9 (p) Subdivisions (a) and (b) shall not apply to the possession  
10 and importation of an assault weapon *or a .50 BMG rifle* into this  
11 state by a nonresident if all of the following conditions are met:

12 (1) The person is attending or going directly to or coming  
13 directly from an organized competitive match or league  
14 competition that involves the use of an assault weapon *or a .50*  
15 *BMG rifle*.

16 (2) The competition or match is conducted on the premises of  
17 one of the following:

18 (i) A target range that holds a regulatory or business license for  
19 the purpose of practicing shooting at that target range.

20 (ii) A target range of a public or private club or organization  
21 that is organized for the purpose of practicing shooting at targets.

22 (3) The match or competition is sponsored by, conducted under  
23 the auspices of, or approved by, a law enforcement agency or a  
24 nationally or state recognized entity that fosters proficiency in, or  
25 promotes education about, firearms.

26 (4) The assault weapon *or .50 BMG rifle* is transported in  
27 accordance with Section 12026.1 or 12026.2.

28 (5) The person is 18 years of age or over and is not in a class  
29 of persons prohibited from possessing firearms by virtue of  
30 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
31 the Welfare and Institutions Code.

32 (q) Subdivision (b) shall not apply to any of the following  
33 persons:

34 (1) A person acting in accordance with Section 12286.

35 (2) A person who has a permit to possess an assault weapon *or*  
36 *a .50 BMG rifle* issued pursuant to Section 12286 when he or she  
37 is acting in accordance with Section 12285 or 12286.

38 (r) Subdivisions (a) and (b) shall not apply to any of the  
39 following persons:

40 (1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon *or a .50 BMG rifle* possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) (1) Subdivision (a) shall not apply to the importation into this state of an assault weapon *or a .50 BMG rifle* by the registered owner of that assault weapon *or a .50 BMG rifle*, if it is in accordance with the provisions of subdivision (c) of Section 12285.

~~(u)~~

(2) *Subdivision (a) shall not apply during the first 90 days of the 2004 calendar year to the importation into this state of a .50 BMG rifle by a person who lawfully possessed that .50 BMG rifle in this state on December 31, 2003.*

(u) *Subdivision (b) shall not apply to the possession of a .50 BMG rifle that is not defined or specified as an assault weapon pursuant to this chapter, by any person during the first 90 days of the 2004 calendar year if all of the following are applicable:*

(1) *The person is eligible under this chapter to register that .50 BMG rifle.*

(2) *The person lawfully possessed the .50 BMG rifle prior to January 1, 2004.*

(3) *The person is otherwise in compliance with this chapter.*

(v) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (d) of that section.

SEC. 11. Section 12285 of the Penal Code is amended to read:

12285. (a) (1) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days with the Department of Justice

1 pursuant to those procedures that the department may establish.  
2 Except as provided in subdivision (a) of Section 12280, any person  
3 who lawfully possessed an assault weapon prior to the date it was  
4 defined as an assault weapon pursuant to Section 12276.1, and  
5 which was not specified as an assault weapon under Section 12276  
6 or 12276.5, shall register the firearm within one year of the  
7 effective date of Section 12276.1, with the department pursuant to  
8 those procedures that the department may establish. The  
9 registration shall contain a description of the firearm that identifies  
10 it uniquely, including all identification marks, the full name,  
11 address, date of birth, and thumbprint of the owner, and any other  
12 information that the department may deem appropriate. The  
13 department may charge a fee for registration of up to twenty  
14 dollars (\$20) per person but not to exceed the actual processing  
15 costs of the department. After the department establishes fees  
16 sufficient to reimburse the department for processing costs, fees  
17 charged shall increase at a rate not to exceed the legislatively  
18 approved annual cost-of-living adjustment for the department's  
19 budget or as otherwise increased through the Budget Act.

20 *(2) Except as provided in subdivision (a) of Section 12280, any*  
21 *person who lawfully possesses any .50 BMG rifle prior to January*  
22 *1, 2004, that is not specified as an assault weapon under Section*  
23 *12276 or 12276.5 or defined as an assault weapon pursuant to*  
24 *Section 12276.1, shall register the .50 BMG rifle with the*  
25 *department within 90 days pursuant to those procedures that the*  
26 *department may establish. The registration shall contain a*  
27 *description of the firearm that identifies it uniquely, including all*  
28 *identification marks, the full name, address, date of birth, and*  
29 *thumbprint of the owner, and any other information that the*  
30 *department may deem appropriate. The department may charge a*  
31 *fee for registration of up to twenty-five dollars (\$25) per person but*  
32 *not to exceed the actual processing costs of the department. After*  
33 *the department establishes fees sufficient to reimburse the*  
34 *department for processing costs, fees charged shall increase at a*  
35 *rate not to exceed the legislatively approved annual cost-of-living*  
36 *adjustment for the department's budget or as otherwise increased*  
37 *through the Budget Act.*

38 (b) (1) Except as provided in paragraph (2), no assault weapon  
39 possessed pursuant to this section may be sold or transferred on or  
40 after January 1, 1990, to anyone within this state other than to a



1 licensed gun dealer, as defined in subdivision (c) of Section 12290,  
2 or as provided in Section 12288. Any person who (A) obtains title  
3 to an assault weapon registered under this section or that was  
4 possessed pursuant to subdivision (g) or (i) of Section 12280 by  
5 bequest or intestate succession, or (B) lawfully possessed a firearm  
6 subsequently declared to be an assault weapon pursuant to Section  
7 12276.5, or subsequently defined as an assault weapon pursuant to  
8 Section 12276.1, shall, within 90 days, render the weapon  
9 permanently inoperable, sell the weapon to a licensed gun dealer,  
10 obtain a permit from the Department of Justice in the same manner  
11 as specified in Article 3 (commencing with Section 12230) of  
12 Chapter 2, or remove the weapon from this state. A person who  
13 lawfully possessed a firearm that was subsequently declared to be  
14 an assault weapon pursuant to Section 12276.5 may alternatively  
15 register the firearm within 90 days of the declaration issued  
16 pursuant to subdivision (f) of Section 12276.5.

17 (2) A person moving into this state, otherwise in lawful  
18 possession of an assault weapon, shall do one of the following:

19 (A) Prior to bringing the assault weapon into this state, that  
20 person shall first obtain a permit from the Department of Justice  
21 in the same manner as specified in Article 3 (commencing with  
22 Section 12230) of Chapter 2.

23 (B) The person shall cause the assault weapon to be delivered  
24 to a licensed gun dealer, as defined in subdivision (c) of Section  
25 12290, in this state in accordance with Chapter 44 (commencing  
26 with Section 921) of Title 18 of the United States Code and the  
27 regulations issued pursuant thereto. If the person obtains a permit  
28 from the Department of Justice in the same manner as specified in  
29 Article 3 (commencing with Section 12230) of Chapter 2, the  
30 dealer shall redeliver that assault weapon to the person. If the  
31 licensed gun dealer, as defined in subdivision (c) of Section 12290,  
32 is prohibited from delivering the assault weapon to a person  
33 pursuant to this paragraph, the dealer shall possess or dispose of  
34 the assault weapon as allowed by this chapter.

35 (3) *Except as provided in paragraph (4), no .50 BMG rifle*  
36 *possessed pursuant to this section may be sold or transferred on or*  
37 *after January 1, 2003, to anyone within this state other than to a*  
38 *licensed gun dealer, as defined in subdivision (c) of Section 12290,*  
39 *or as provided in Section 12288. Any person who obtains title to*  
40 *a .50 BMG rifle registered under this section or that was possessed*



1 *pursuant to subdivision (g) of Section 12280 by bequest or*  
2 *intestate succession shall, within 90 days, render the weapon*  
3 *permanently inoperable, sell the weapon to a licensed gun dealer,*  
4 *obtain a permit from the Department of Justice in the same manner*  
5 *as specified in Article 3 (commencing with Section 12230) of*  
6 *Chapter 2, or remove the weapon from this state.*

7 *(4) A person moving into this state, otherwise in lawful*  
8 *possession of a .50 BMG rifle, shall do one of the following:*

9 *(A) Prior to bringing the .50 BMG rifle into this state, that*  
10 *person shall first obtain a permit from the Department of Justice*  
11 *in the same manner as specified in Article 3 (commencing with*  
12 *Section 12230) of Chapter 2.*

13 *(B) The person shall cause the .50 BMG rifle to be delivered to*  
14 *a licensed gun dealer, as defined in subdivision (c) of Section*  
15 *12290 in this state in accordance with Chapter 44 (commencing*  
16 *with Section 921) of Title 18 of the United States Code and the*  
17 *regulations issued pursuant thereto. If the person obtains a permit*  
18 *from the Department of Justice in the same manner as specified in*  
19 *Article 3 (commencing with Section 12230) of Chapter 2, the*  
20 *dealer shall redeliver that .50 BMG rifle to the person. If the*  
21 *licensed gun dealer, as defined in subdivision (c) of Section 12290*  
22 *is prohibited from delivering the .50 caliber BMG rifle to a person*  
23 *pursuant to this paragraph, the dealer shall dispose of the .50*  
24 *BMG rifle as allowed by this chapter.*

25 *(c) A person who has registered an assault weapon or registered*  
26 *a .50 BMG rifle under this section may possess it only under any*  
27 *of the following conditions unless a permit allowing additional*  
28 *uses is first obtained under Section 12286:*

29 *(1) At that person's residence, place of business, or other*  
30 *property owned by that person, or on property owned by another*  
31 *with the owner's express permission.*

32 *(2) While on the premises of a target range of a public or private*  
33 *club or organization organized for the purpose of practicing*  
34 *shooting at targets.*

35 *(3) While on a target range that holds a regulatory or business*  
36 *license for the purpose of practicing shooting at that target range.*

37 *(4) While on the premises of a shooting club which is licensed*  
38 *pursuant to the Fish and Game Code.*

39 *(5) While attending any exhibition, display, or educational*  
40 *project which is about firearms and which is sponsored by,*

1 conducted under the auspices of, or approved by a law  
2 enforcement agency or a nationally or state recognized entity that  
3 fosters proficiency in, or promotes education about, firearms.

4 (6) While on publicly owned land if the possession and use of  
5 a firearm described in Section 12276-~~01~~, 12276.1, or 12278 is  
6 specifically permitted by the managing agency of the land.

7 (7) While transporting the assault weapon or .50 BMG rifle  
8 between any of the places mentioned in this subdivision, or to any  
9 licensed gun dealer, as defined in subdivision (c) of Section 12290,  
10 for servicing or repair pursuant to subdivision (b) of Section  
11 12290, if the assault weapon or .50 BMG rifle is transported as  
12 required by Section 12026.1.

13 (d) No person who is under the age of 18 years, no person who  
14 is prohibited from possessing a firearm by Section 12021 or  
15 12021.1, and no person described in Section 8100 or 8103 of the  
16 Welfare and Institutions Code may register or possess an assault  
17 weapon or a .50 BMG rifle.

18 (e) The department's registration procedures shall provide the  
19 option of joint registration for assault weapons or .50 BMG rifles  
20 owned by family members residing in the same household.

21 (f) For 90 days following January 1, 1992, a forgiveness period  
22 shall exist to allow persons specified in subdivision (b) of Section  
23 12280 to register with the Department of Justice assault weapons  
24 that they lawfully possessed prior to June 1, 1989.

25 (g) (1) Any person who registered a firearm as an assault  
26 weapon pursuant to the provisions of law in effect prior to January  
27 1, 2000, where the assault weapon is thereafter defined as an  
28 assault weapon pursuant to Section 12276.1, shall be deemed to  
29 have registered the weapon for purposes of this chapter and shall  
30 not be required to reregister the weapon pursuant to this section.

31 (2) Any person who legally registered a firearm as an assault  
32 weapon pursuant to the provisions of law in effect prior to January  
33 1, 2004, where the assault weapon is thereafter defined as a .50  
34 caliber BMG rifle pursuant to Section 12278, shall be deemed to  
35 have registered the weapon for purposes of this chapter and shall  
36 not be required to reregister the weapon pursuant to this section.  
37 The Department of Justice shall cross-reference any .50 BMG rifle  
38 that is already registered as an assault weapon as also being  
39 registered as a .50 BMG rifle.

1 (h) Any person who registers his or her assault weapon during  
2 the 90-day forgiveness period described in subdivision (f), and any  
3 person whose registration form was received by the Department  
4 of Justice after January 1, 1991, and who was issued a temporary  
5 registration prior to the end of the forgiveness period, shall not be  
6 charged with a violation of subdivision (b) of Section 12280, if law  
7 enforcement becomes aware of that violation only as a result of the  
8 registration of the assault weapon. This subdivision shall have no  
9 effect upon persons charged with a violation of subdivision (b) of  
10 Section 12280 of the Penal Code prior to January 1, 1992,  
11 provided that law enforcement was aware of the violation before  
12 the weapon was registered.

13 SEC. 12. Section 12286 of the Penal Code is amended to read:

14 12286. (a) Any person who lawfully acquired an assault  
15 weapon before June 1, 1989, and wishes to use it in a manner  
16 different than specified in subdivision (c) of Section 12285, any  
17 person who lawfully acquired an assault weapon between June 1,  
18 1989, and January 1, 1990, and wishes to keep it after January 1,  
19 1990, or any person who wishes to acquire an assault weapon after  
20 January 1, 1990, shall first obtain a permit from the Department  
21 of Justice in the same manner as specified in Article 3  
22 (commencing with Section 12230) of Chapter 2.

23 (b) *Any person who lawfully acquired a .50 BMG rifle before*  
24 *January 1, 2004, and wishes to use it in a manner different than*  
25 *specified in subdivision (c) of Section 12285, or any person who*  
26 *wishes to acquire a .50 BMG rifle after January 1, 2004, shall first*  
27 *obtain a permit from the Department of Justice in the same manner*  
28 *as specified in Article 3 (commencing with Section 12230) of*  
29 *Chapter 2.*

30 SEC. 13. Section 12287 of the Penal Code is amended to read:

31 12287. (a) The Department of Justice may, upon a finding of  
32 good cause, issue permits for the manufacture of assault weapons  
33 *or .50 BMG rifles* to federally licensed manufacturers of firearms  
34 for the sale to, purchase by, or possession of assault weapons *or .50*  
35 *BMG rifles* by, any of the following:

36 (1) The agencies listed in subdivision (f) of Section 12280.

37 (2) Entities and persons who have been issued permits pursuant  
38 to Section 12286.



(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal law enforcement and military agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 14. Section 12288 of the Penal Code is amended to read:

12288. Any individual may arrange in advance to relinquish an assault weapon *or a .50 BMG rifle* to a police or sheriff's department. The assault weapon *or .50 BMG rifle* shall be transported in accordance with Section 12026.1.

SEC. 15. Section 12288.5 of the Penal Code is amended to read:

12288.5. (a) No peace officer or dispatcher shall broadcast over a police radio that an individual has registered, or has obtained a permit to possess, an assault weapon *or .50 BMG rifle* pursuant to this chapter, unless there exists a reason to believe in good faith that one of the following conditions exist:

(1) The individual has engaged, or may be engaged, in criminal conduct.

(2) The police are responding to a call in which the person allegedly committing a criminal violation may gain access to the assault weapon *or .50 BMG rifle*.

(3) The victim, witness, or person who reported the alleged criminal violation may be using the assault weapon *or .50 BMG rifle* to hold the person allegedly committing the criminal violation or may be using the weapon in defense of himself, herself, or other persons.

(b) This section shall not prohibit a peace officer or dispatcher from broadcasting over a police radio that an individual has not registered, or has not obtained a permit to possess, an assault weapon *or .50 BMG rifle* pursuant to this chapter.

(c) This section does not limit the transmission of *an* assault weapon *or a .50 BMG rifle* ownership status via law enforcement

1 computers or any other medium that is legally accessible only to  
2 peace officers or other authorized personnel.

3 SEC. 16. Section 12289 of the Penal Code is amended to read:

4 12289. (a) The Department of Justice shall conduct a public  
5 education and notification program regarding the registration of  
6 assault weapons and the definition of the weapons set forth in  
7 Section 12276.1. The public education and notification program  
8 shall include outreach to local law enforcement agencies and  
9 utilization of public service announcements in a variety of media  
10 approaches, to ensure maximum publicity of the limited  
11 forgiveness period of the registration requirement specified in  
12 subdivision (f) of Section 12285 and the consequences of  
13 nonregistration. The department shall develop posters describing  
14 gunowners' responsibilities under this chapter which shall be  
15 posted in a conspicuous place in every licensed gun store in the  
16 state during the forgiveness period. *For .50 BMG rifles, the*  
17 *department's education campaign shall provide materials to*  
18 *dealers of .50 BMG rifles, and to recognized national associations*  
19 *that specialize in .50 BMG rifles.*

20 (b) Any costs incurred by the Department of Justice to  
21 implement this section which cannot be absorbed by the  
22 department shall be funded from the Dealers' Record of Sale  
23 Special Account, as set forth in subdivision (d) of Section 12076,  
24 upon appropriation by the Legislature.

25 SEC. 17. Section 12290 of the Penal Code is amended to read:

26 12290. (a) Any licensed gun dealer, as defined in subdivision  
27 (c), who lawfully possesses an assault weapon *or a .50 BMG rifle*  
28 pursuant to Section 12285, in addition to the uses allowed in  
29 Section 12285, may transport the ~~weapon~~ *firearm* between dealers  
30 or out of the state *if that person is permitted pursuant to the*  
31 *National Firearms Act*, display it at any gun show licensed by a  
32 state or local governmental entity, sell it to a resident outside the  
33 state, or sell it to a person who has been issued a permit pursuant  
34 to Section 12286. Any transporting allowed by this section must  
35 be done as required by Section 12026.1.

36 (b) (1) Any licensed gun dealer, as defined in subdivision (c),  
37 may take possession of any assault weapon *or .50 BMG rifle* for  
38 the purposes of servicing or repair from any person to whom it is  
39 legally registered or who has been issued a permit to possess it  
40 pursuant to this chapter.

(2) Any licensed gun dealer may transfer possession of any assault weapon *or .50 BMG rifle* received pursuant to paragraph (1), to a gunsmith for purposes of accomplishing service or repair of the same. Transfers are permissible only to the following persons:

(A) A gunsmith who is in the dealer's employ.

(B) A gunsmith with whom the dealer has contracted for gunsmithing services. In order for this subparagraph to apply, the gunsmith receiving the assault weapon ~~must~~ *or .50 BMG rifle shall* hold all of the following:

(i) A dealer's license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(ii) Any business license required by a state or local governmental entity.

(c) The term "licensed gun dealer," as used in this article, means a person who is licensed pursuant to Section 12071.

SEC. 18. It is not the intent of the Legislature in amending Sections 12020 and 12280 of the Penal Code by this act to supersede, restrict, or affect the application of any other law, and to that end the amendments are cumulative. However, an act or omission punishable under different ways by these amended sections and other provisions of law shall not be punished under more than one provision.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.